

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

CHRISTOPHER ZOMERFELD, :
 :
Plaintiff : CIVIL ACTION NO. 3:22-235
 :
v. : (JUDGE MANNION)
 :
LARKSVILLE BOROUGH, *et al.*, :
 :
Defendants :

ORDER

Presently before the court is the June 3, 2022 Report and Recommendation of Magistrate Judge Carlson (“Report”), (Doc. 26), which recommends that the defendants’ motion for a more definite statement of the plaintiff’s claims and the defendants’ motion to dismiss the *pro se* complaint of the plaintiff, (Docs. 20 and 22), be **GRANTED**.

No objections were filed to the Report by either the plaintiff or the defendants and, the time within which they were due has expired.¹

When no objections are made to the report and recommendation of a magistrate judge, the court should, as a matter of good practice, “satisfy itself

¹Since the Report states the correct background of this case, it will not be repeated herein. Also, the court notes that while the plaintiff was mailed a copy of the Report to his last known address on file, it was returned as undeliverable to the court on June 13, 2022, by the U.S. Post Office. (Doc. 27). Thus, the plaintiff failed to abide by the Local Rules of this court which required him to notify the court of any change in his address.

that there is no clear error on the face of the record in order to accept the recommendation.” [Fed.R.Civ.P. 72\(b\)](#); advisory committee notes; *see also* [Univac Dental Co. v. Dentsply Intern., Inc.](#), 702 F.Supp.2d 465, 469 (M.D. Pa. 2010) (citing [Henderson v. Carlson](#), 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. [28 U.S.C. §636\(b\)\(1\)](#); [M.D. Pa. L.R. 72.31](#).

The court has reviewed the Report of Judge Carlson, as well as the complaint and the motions, and the court will adopt the Report and dismiss the complaint.

Initially, the Report correctly explains that the plaintiff should be deemed as not opposing the defendants’ motions due to his failure to file responses to them, even after Judge Carlson warned him of the consequences for his failure to file his responses. (Doc. 25).

Next, the Report correctly finds that dismissal of this case is warranted under [Fed.R.Civ.P. 41\(b\)](#), for the plaintiff’s failure to prosecute, after the [Poulis](#) factors are examined.

Finally, the Report finds that the defendants' motions should be granted on their merits since the plaintiff's complaint fails to state a claim upon which relief may be granted and fails to comply with the pleading requirements of Fed.R.Civ.P. 8. However, as the Report recommends, the plaintiff's complaint will be dismissed without prejudice.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

- (1) The Report of Judge Carlson, (Doc. 26), is ADOPTED IN ITS ENTIRETY;**
- (2) The defendants' motions for a more definite statement, (Doc. 20), and to dismiss for failure to state a claim, (Doc. 22), are GRANTED.**
- (3) The plaintiff's complaint, (Doc. 1), is DISMISSED WITHOUT PREJUDICE; and**
- (4) The Clerk of Court is directed to CLOSE THIS CASE.**

s/ Malachy E. Mannion

MALACHY E. MANNION

United States District Judge

DATE: June 27, 2022

22-235-01